

HB26-1017

HOUSE FLOOR AMENDMENT

Second Reading BY REPRESENTATIVES Espenoza and Zokaie

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, 18-1.3-601, **add**
4 (1)(h) as follows:

5 **18-1.3-601. Legislative declaration.**

6 (1) The general assembly finds and declares that:

7 (h) AN INSURANCE COMPANY, AS PART OF ITS BUSINESS
8 OPERATIONS, COMPENSATES A DIRECT VICTIM OF A CRIME DUE TO THE
9 CONTRACTUAL RELATIONSHIP BETWEEN THE INSURANCE COMPANY AND
10 VICTIM WHEREBY THE VICTIM PAYS THE INSURANCE COMPANY A PREMIUM
11 AND THE INSURANCE COMPANY COMPENSATES THE VICTIM FOR LOSSES
12 SUSTAINED. IN THESE INSTANCES, CRIMINAL RESTITUTION TO MAKE DIRECT
13 VICTIMS WHOLE MUST BE PRIORITIZED, WHILE INSURANCE COMPANIES
14 SHOULD RECOVER THEIR LOSSES THROUGH REMEDIES OTHER THAN
15 CRIMINAL RESTITUTION ORDERS. HOWEVER, AN INSURANCE COMPANY
16 THAT IS A DIRECT VICTIM OF A CRIME MUST BE MADE WHOLE THROUGH THE
17 CRIMINAL RESTITUTION PROCESS, INCLUDING IF THE INSURANCE COMPANY
18 IS A VICTIM OF A SCHEME TO DEFRAUD THE INSURANCE COMPANY OR WHEN
19 THE INSURANCE COMPANY'S PROPERTY IS DAMAGED OR STOLEN BY
20 CRIMINAL ACTS.

21 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-602, **amend**
22 (3)(a), (3)(d), (4)(a)(I), (4)(a)(III), and (4)(a)(VI) as follows:

23 **18-1.3-602. Definitions.**

24 As used in this part 6, unless the context otherwise requires:

25 (3) (a) "Restitution" means any pecuniary loss suffered by a victim
26 and includes, but is not limited to, all out-of-pocket expenses, interest,
27 loss of use of money, anticipated future expenses, rewards paid by
28 victims, money advanced by law enforcement agencies, money advanced
29 by a governmental agency for a service animal, adjustment expenses, and
30 other losses or injuries proximately caused by an offender's conduct and
31 that can be reasonably calculated and recompensed in money.
32 "Restitution" does not include LOSSES FOR WHICH A VICTIM MAY BE
33 COMPENSATED THROUGH A PRIVATE INSURANCE POLICY, damages for
34 physical or mental pain and suffering, loss of consortium, loss of
35 enjoyment of life, loss of future earnings, or punitive damages.

36 (d) "Restitution" ~~shall also include~~ ALSO INCLUDES costs incurred
37 by a governmental agency or A WORKER'S COMPENSATION insurer that
38 provides medical benefits, health benefits, or nonmedical support services
39 directly related to a medical or health condition to a victim for losses or
40 injuries proximately caused by an offender's conduct, including, but not

1 limited to, costs incurred by medicaid, MEDICARE, and other care
2 programs for indigent persons.

3 (4) (a) "Victim" means any person aggrieved by the conduct of an
4 offender and includes, but is not limited to, the following:

5 (I) Any person against whom any felony, misdemeanor, petty
6 OFFENSE, or traffic misdemeanor offense has been perpetrated or
7 attempted, INCLUDING AN INSURANCE COMPANY WHEN THE INSURANCE
8 COMPANY IS A VICTIM OF A SCHEME TO DEFRAUD THE INSURANCE
9 COMPANY OR WHEN THE INSURANCE COMPANY'S PROPERTY IS DAMAGED
10 OR STOLEN THROUGH A CRIMINAL ACT;

11 (III) Any person who has suffered losses ~~because of a contractual~~
12 ~~relationship with, including but not limited to, an insurer, or because of~~
13 ~~liability under~~ PURSUANT TO section 14-6-110 C.R.S., for a person
14 described in ~~subparagraph (I) or (II) of this paragraph (a)~~ SUBSECTION
15 (4)(a)(I) OR (4)(a)(II) OF THIS SECTION;

16 (VI) Any person who had to expend resources for the purposes
17 described in ~~paragraphs (b), (c), and (d) of subsection (3) of this section~~
18 SUBSECTIONS (3)(b), (3)(c), OR (3)(d) OF THIS SECTION, EXCEPT NOT AN
19 INSURANCE COMPANY THAT COMPENSATED A VICTIM FOR A LOSS, EXCEPT
20 AS PROVIDED IN SUBSECTION (3)(d) OF THIS SECTION.

21 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-603, **amend**
22 (8); and **add** (12) and (13) as follows:

23 **18-1.3-603. Assessment of restitution - corrective orders.**

24 (8) (a) ~~Notwithstanding the provisions of subsection (1) of this~~
25 ~~section, for a non-felony conviction under title 42, C.R.S.,~~ The court shall
26 order restitution concerning only the portion of the victim's pecuniary loss
27 for which the victim cannot be compensated under a policy of insurance,
28 self-insurance, an indemnity agreement, or a risk management fund. A
29 COURT MAY AWARD A VICTIM RESTITUTION FOR A DEDUCTIBLE AMOUNT
30 UNDER THE VICTIM'S POLICY OF INSURANCE.

31 (b) ~~The court, in determining the restitution amount, shall consider~~
32 ~~whether the defendant or the vehicle driven by the defendant at the time~~
33 ~~of the offense was covered by:~~

34 (I) ~~A complying policy of insurance or certificate of self-insurance~~
35 ~~as required by the laws of this state;~~

36 (II) ~~Self-insurance including but not limited to insurance coverage~~
37 ~~pursuant to the provisions of part 15 of article 30 of title 24, C.R.S.; or~~

38 (III) ~~Any other insurance or indemnity agreement that would~~
39 ~~indemnify the defendant for any damages sustained by the victim.~~

40 (c) (I) ~~Except as otherwise provided in this paragraph (c), a court~~
41 ~~may not award restitution to a victim concerning a pecuniary loss for~~
42 ~~which the victim has received or is entitled to receive benefits or~~
43 ~~reimbursement under a policy of insurance or other indemnity agreement.~~

1 ~~(H) (A) A court may award a victim restitution for a deductible~~
2 ~~amount under his or her policy of insurance.~~

3 ~~(B) (Deleted by amendment, L. 2004, p. 904, § 28, effective May~~
4 ~~21, 2004.)~~

5 ~~(d) (I) (Deleted by amendment, L. 2004, p. 904, § 28, effective~~
6 ~~May 21, 2004.)~~

7 ~~(H) (b) Nothing in this paragraph (d) shall~~ THIS SECTION DOES NOT
8 prohibit a nonowner driver or passenger in ~~the~~ A vehicle from being
9 awarded restitution if the NONOWNER driver or passenger was not covered
10 by ~~his or her~~ THE NONOWNER DRIVER'S OR PASSENGER'S own medical
11 payments coverage policy.

12 ~~(e) (I) (c) Notwithstanding any provision of law to the contrary,~~
13 an insurance company, risk management fund, or public entity ~~shall not~~
14 ~~be~~ IS NOT obligated to defend a defendant in a hearing concerning
15 restitution. ~~No~~ A court shall NOT interpret an indemnity or insurance
16 contract ~~so as to obligate~~ AS REQUIRING an insurance company, risk
17 management fund, or public entity to defend a defendant at a restitution
18 hearing absent a specific agreement.

19 ~~(H) Notwithstanding any provision of law, indemnity contract, or~~
20 ~~insurance contract to the contrary, an insurance company, risk~~
21 ~~management fund, or public entity shall not be obligated to pay or~~
22 ~~otherwise satisfy a civil judgment entered pursuant to this part 6, or to~~
23 ~~indemnify a defendant for an amount awarded in a restitution order.~~

24 ~~(f) Nothing in this article shall be construed to limit or abrogate~~
25 ~~the rights and immunities set forth in the "Colorado Governmental~~
26 ~~Immunity Act", article 10 of title 24, C.R.S.~~

27 ~~(g) (d) The provisions of This subsection (8) shall~~ DOES not
28 preclude the court, pursuant to article 4.1 of title 24, ~~C.R.S.~~, from
29 ordering restitution to reimburse an expenditure made by a victim
30 compensation fund.

31 (12) THIS PART 6 DOES NOT PREVENT AN INSURANCE COMPANY
32 FROM FILING A CIVIL ACTION OR PURSUING ANY OTHER CIVIL REMEDY
33 AGAINST A DEFENDANT TO RECOVER LOSSES THE INSURANCE COMPANY
34 SUFFERED.

35 (13) THIS PART 6 DOES NOT LIMIT OR ABROGATE THE RIGHTS AND
36 IMMUNITIES SET FORTH IN THE "COLORADO GOVERNMENTAL IMMUNITY
37 ACT", ARTICLE 10 OF TITLE 24.

38 **SECTION 4. Act subject to petition - effective date.** This act
39 takes effect at 12:01 a.m. on the day following the expiration of the
40 ninety-day period after final adjournment of the general assembly (August
41 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
42 referendum petition is filed pursuant to section 1 (3) of article V of the
43 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2026 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor."

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